

RECEIVED  
CENTRAL FAX CENTER

JUL 01 2004

OFFICIAL

JOHN D. POFFENBERGER  
BRUCE TITTEL  
DONALD F. FREI  
DAVID J. JOSEPHIC  
DAVID S. STALLARD  
J. ROBERT CHAMBERS  
GREGORY J. LUNN  
KURT L. GROSSMAN  
CLEMENT H. LUKEN, JR.  
THOMAS J. BURGER  
GREGORY F. AHRENS  
WAYNE L. JACOBS  
KURT A. SUMME  
KEVIN G. ROONEY  
KEITH R. HAUPPT  
THEODORE R. REMAKLUS  
THOMAS W. HUMPHREY  
SCOTT A. STINEBRUNER  
DAVID H. BRINKMAN

**WOOD, HERRON & EVANS, L.L.P.**

2700 Carew Tower  
441 Vine Street  
Cincinnati, Ohio 45202-2917  
Telephone: 513-241-2324  
Facsimile: 513-421-7269  
EMAIL: info@whepatent.com

PATENT, TRADEMARK, COPYRIGHT  
AND UNFAIR COMPETITION LAW  
AND RELATED LITIGATION

EDMUND P. WOOD 1923-1968  
TRUMAN A. HERRON 1935-1976  
EDWARD B. EVANS 1936-1971

JOSEPH R. JORDAN  
C. RICHARD EBY  
DAVID E. PRITCHARD

J. DWIGHT POFFENBERGER, JR.  
BEVERLY A. LYMAN, Ph.D.  
KATHRYN E. SMITH  
KRISTI L. DAVIDSON  
P. ANDREW BLATT, Ph.D.  
DAVID E. JEFFERIES  
WILLIAM R. ALLEN, Ph.D.  
JOHN PAUL DAVIS  
DOUGLAS A. SCHOLER  
BRETT A. SCHATZ  
DAVID W. DORTON  
RONALD J. RICHTER, M.D.  
G. PRABHAKAR REDDY, M.S.CH.  
SARAH OTTE GRABER

OF COUNSEL  
THOMAS W. FLYNN

**FACSIMILE COVER SHEET**

If transmission is interrupted or of poor  
quality, please notify us immediately by  
calling 513 \ 241-2324.  
Ask for sender's secretary.

TO: The Honorable Commissioner  
Attention: Dameron L. Jones  
Art Unit 1616

FROM: Beverly A. Lyman, Ph.D.

Fax No.: (703) 872-9306

Phone: (513) 241-2324

Date: July 1, 2004

Fax: (513) 421-7269

Pages (including cover page): 23

Re: U.S. Serial No. 09/757,332 HYDROPHILIC CYANINE DYES

**ATTACHMENTS/COMMENTS: OFFICIAL**

Please deliver to Dameron L. Jones  
Request for Continued Examination (RCE) (1 page)  
Preliminary Amendment (9 pages)  
Terminal Disclaimer (3 pages)  
Information Disclosure Statement (2 pages)  
PTO Form 1449 (1 page)  
2 IDS Cited References (6 pages)

**CERTIFICATE OF FACSIMILE TRANSMISSION**

I hereby certify that this correspondence is being facsimile transmitted  
to the Patent and Trademark Office centralized facsimile number (703)  
872-9308 on the date shown below.

*Ronald A. Ghanne*

July 1, 2004

PTO/SB/30 (09-03)

Approved for use through 07/31/2006. OMB 0851-0031

U.S. Patent and Trademark Office, U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**Request  
for  
Continued Examination (RCE)  
Transmittal**Address to:  
Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Application Number	09/757,332
Filing Date	January 9, 2001
First Named Inventor	Samuel I. Achilefu
Art Unit	1616
Examiner Name	Dameron L. Jones
Attorney Docket Number	MRD-66

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_

ii. ☐ Other \_\_\_\_\_

b. ☒ Enclosed

i. ☒ Amendment/Reply

ii. ☐ Affidavit(s)/Declaration(s)

iii. ☒ Information Disclosure Statement (IDS)

iv. ☒ Other Terminal Disclaimer

2. **Miscellaneous**

a. ☐ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of \_\_\_\_\_ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(f) required)

b. ☐ Other \_\_\_\_\_

3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed. The Director is hereby authorized to charge the following fees, or credit any overpayments, to

a. ☒ Deposit Account No. 23-3000

i. ☒ RCE fee required under 37 CFR 1.17(e) (\$770.00)

ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)

iii. ☒ Other Terminal Disclaimer Fee of \$110.00

b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed

c. ☐ Payment by credit card (Form PTO-2038 enclosed)

**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED**

Name (Print/Type)	Beverly A. Lyman, Ph.D.	Registration No. (Attorney/Agent)	41,961
Signature	<i>Beverly A. Lyman</i>	Date	07/01/04

**CERTIFICATE OF MAILING OR TRANSMISSION**

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

Name (Print/Type)	Rhonda A. Etienne	Date	7/1/04
Signature	<i>Rhonda A. Etienne</i>		

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

RECEIVED  
CENTRAL FAX CENTER

JUL 01 2004

OFFICIAL



**Certificate of Facsimile Transmission**

I hereby certify that this correspondence is being transmitted via facsimile to Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, Technology Center 1600, Attention: Examiner Dameron L. Jones, at centralized facsimile number (703) 872-9306 on

Rhonda A. Etienne July 1, 2004  
Rhonda A. Etienne Date

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicant(s): Achilefu et al.  
Serial No.: 09/757,332  
Filed: January 9, 2001  
Art Unit: 1616  
Confirmation No.: 5505  
Examiner: Jones, Dameron Levest  
Title: **HYDROPHILIC CYANINE DYES**  
Atty Docket: MRD-66

Cincinnati, Ohio 45202

July 1, 2004

Mail Stop RCE  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PRELIMINARY AMENDMENT**

In response to the Office Action dated April 14, 2004, please amend the above-identified application as follows.

**Amendments to the Claims** are reflected in the listing of claims which begin on page 2 of this paper.

**Remarks** begin on page 8 of this paper.